

Applicants : Michael Wayne Graham and Robert Norman Rice
Serial No. : 10/759,841
Filed : January 15, 2004
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REMARKS

Claims 172, 176-188, 190-197, 199-200, 202-209 and 211-214 were pending in the subject application. Applicants have amended claims 172, 188, 200, canceled claims 180, 194, 206 and added new claims 215-244.

Support for Claims

The subject application is a continuation of U.S. Serial No. 10/346,853, filed January 17, 2003, which is a continuation of U.S. Serial No. 09/100,812, filed June 19, 1998, now U.S. Patent No. 6,573,099 B2, issued June 3, 2003, which claims priority of Australian Provisional Patent Application No. PP2492, filed March 20, 1998 (the "Priority Application"). The new claims are fully supported in the disclosure of the Priority Application.

The amendment replacing "20-30" with "about 20" in claims 172, 188 and 200 is supported, *inter alia*, by page 10, line 16 of the Priority Application and in the claims as filed. New claims 215-244 are analogous to previously pending claims.

Accordingly, claims 172, 176-179, 181-188, 190-193, 195-197, 199-200, 202-205, 207-209 and 211-244 are pending in the subject application.

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Summary of December 17, 2009 Examiner Interviews

Applicants thank Examiner Whiteman for initiating the Examiner Interview to advance this application. During the December 17, 2009 interview, Examiner Whiteman indicated that claims reciting "about 20" base pairs and the specific targets described on page 10, lines 15-21 of the Priority Application would be favorably considered for allowance, if applicants also clearly stated on the record that "about 20" base pairs in the claims does not encompass 25 base pairs to avoid purported prior art, namely U.S. Patent No. 6,506,559 to Fire et al.

To advance prosecution of the subject application and while maintaining their right to pursue claims reciting "20-30" base pairs in any related application, applicants are filing this Amendment and hereby disavow a construction of the range of "about 20" base pairs recited in the amended claims herein which would read on 25 base pairs at the upper end of the range and an analogous construction at the lower end of the range and to avoid prior art. See, e.g. *Purdue Pharma. L.P. v. Endo Pharma., Inc.*, 438 F.3d 1123, 1136 (Fed. Cir. 2006).

For clarity of record, despite filing this Amendment, Applicants respectfully maintain that the claims as presented in the September 24, 2009 Amendment are not obvious for reasons discussed in the September 24, 2009 response, and reserve the right to prosecute such claims in related applications.

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Terminal Disclaimer

Applicants enclose herewith as **Exhibit A** a Terminal Disclaimer signed by an authorized representative of Commonwealth Scientific And Industrial Research Organisation, the sole assignee of record of both the subject application and U.S. Patent No. 6,573,099. In accordance with 37 C.F.R. §1.321(b), the Terminal Disclaimer submitted herewith as Exhibit A specifies the portion of the term of the patent being disclaimed and states the present extent of the assignee's ownership interest in the patent to be granted. The filing of a Terminal Disclaimer requires a ONE-HUNDRED AND FORTY DOLLAR (\$140.00) fee as set forth in 37 C.F.R. §1.20(d) and the undersigned hereby authorize the Commission to charge this amount to Deposit Account No. 03-3125. Accordingly, Applicants maintain that the Terminal Disclaimer submitted herewith complies with the requirements of 37 C.F.R. §1.321(b).

Based on the submission of the enclosed Terminal Disclaimer, Applicants understand that this application is in condition for allowance and look forward to the issuance of a Notice of Allowance.